



## MEETING SUMMARY

### **CALIFORNIA WATER PLAN UPDATE 2013 TRIBAL ADVISORY COMMITTEE MEETING**

9:00 AM – 4:30 P.M.

**CALIFORNIA DEPARTMENT OF PUBLIC HEALTH  
1500 CAPITOL, SACRAMENTO, CA**

#### MEETING OBJECTIVES:

1. Finalize Topic Mini-agendas.
2. Confirm invitations to Speakers.
3. Draft resolution presented for review.
4. Discuss White Papers Topics.
5. Finalize Exhibitor details.

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## Welcome, Introductions

Stephanie Lucero, Tribal AC facilitator, welcomed all participants – those on the phone as well as those in the room. The day's agenda was reviewed, beginning with Tribal Water Summit discussions, a presentation from Department of Fish and Wildlife (DFW), update on the Delta Plan from the Delta Stewardship Council, concluding with content for Update 2013 and Public Comment. All meeting materials are posted online at [www.waterplan.water.ca.gov](http://www.waterplan.water.ca.gov) on the Calendar and Materials section.

## TWS Work Plan Update

The TWS Work Plan was reviewed. The initial planning activities are completed, as are many of the logistics items. There was a request to see if traditional foods could be offered. The hotel may be able to accommodate special menu items. TWS Planning Team members were asked to contact Stephanie with any suggestions for traditional foods.



For registration, DWR is providing staff and Tribal representatives are also welcome. There is a suggestion to contact local colleges to inquire if there are Tribal students who would like to volunteer. Summit materials need to be available by March to start preparing Summit packets.

It was noted that each of the three major themes connect with case studies and additional information. For example, MLPA is now a stand-alone panel as a case-study relating to Indigenous Rights to Water. Video and written materials can also be provided as background information to highlight important aspects of TWS themes.

Formal invitations to TWS presenters and speakers will be sent out in mid-February. A conference call will be arranged to discuss key points and provide consistency. A layout or outline of required material will be identified by February. Fundraising efforts are underway to continue the Water Stories effort for the 2013 TWS.

The Tribal AC and TWS Planning Team will need to calendar a meeting to debrief the Summit, develop proceedings, identify strategies for moving forward, and review content for Update 2013. In response to a question, it was announced that Update 2013 will be publicly released in March of 2014 as a result of furlough days that occurred earlier in the process. Content will need to be submitted by the end of 2013 to proceed through Executive Review and formatting for the March 2014 release. Tribal AC meetings may shift as a result in the changes for the publication schedule.

ACTION ITEM: Tribal AC members were requested to follow up with Tribal leaders to confirm receipt of TWS materials and registration link. The registration page is online at: <http://tws2013.eventbrite.com>. There are two categories for registration: dignitaries and observers.

ACTION ITEM: Stephanie Lucero will send invitation template to Tribal AC members, with link for the registration page.

ACTION ITEM: TWS Planning Team members to submit suggestions for traditional foods to Stephanie Lucero.

ACTION ITEM: Stephanie Lucero to contact local colleges to invite Native American studies to assist with registration.

ACTION ITEM: Invitations will be extended to presenters by mid-February.

ACTION ITEM: Schedule Tribal AC/TWS meeting to debrief Summit and work on next steps.

### **Budget and Scholarships**

The budget worksheet was distributed. Several TWS appropriations are tied to fund-raising: travel expenses and hotel accommodations. Tribes and Tribal organizations are also encouraged to consider in-kind contributions, such as use of buses and time in preparing meeting materials. In-kind contributions are tax-deductible and receipts will be provided through North Fork Mono Tribe, Attn: Ron Goode.



It was suggested that Summit expenses be prioritized and that accommodations and honorariums for speakers be given a higher priority. Also, in-kind contributions should be listed and acknowledged in proceedings. This includes the efforts of Planning Team members and speakers who do not require an honorarium.

ACTION ITEM: On Eventbrite – list Ron, not Joetta, for donations.

ACTION ITEM: There should be a direct link for a donation form on the TWS page.

ACTION ITEM: Acknowledge volunteers and in-kind contributions in proceedings.

ACTION ITEM: Add Bureau of Reclamation to list and follow up with Leslie Cleveland.

ACTION ITEM: Add column to budget, showing what has been received to date.

## **Media**

A brief discussion focused on media and press elements for the 2013 TWS. It was noted that while the press was invited to the 2009 TWS, Dan Bacher was the only media representative to attend.

- A press packet needs to be available through a friendly link with access to materials (letter from Laird, agenda, speakers and press releases), press packet and outreach packet. Explain that invitations were sent out, don't post actual invitation. Use a Press icon or Press toolkit symbol to provide the link. Kimberly Johnston-Dodds will connect with Public Affairs to discuss this further.
- Save the Date announcements are needed to remind Tribal leaders to register. Indian Country Today, California Native News, National Native News.
- There needs to be a discussion on protocols for photographs. Schedule a TWS session for press and media discussions, including photos. Look at opportunities to work with Water Stories.

Ron Goode has spoken with an announcer with 88.1 in the Bay/San Jose area. TWS members expressed a preference for no live feed – interviews would be a better approach. Any sessions that are recorded should be announced. For the 2009 TWS, keynote speakers and presenters were recorded – no private conversations were recorded.

ACTION ITEM: Anyone interested in reviewing text for media releases should contact Stephanie Lucero.

ACTION ITEM: Follow up with 88.1 in the Bay area and clarify what can he do, what does he want to do? Ron will work with Stephanie Lucero and John Covington.

ACTION ITEM: Schedule session for press and media discussions, including photos. Look at opportunities to work with Water Stories.

ACTION ITEM: Kimberly Johnston-Dodds will connect with Public Affairs to discuss a Press Toolkit icon and placing it on the Water Plan home page.



ACTION ITEM: Determine photography protocols. Consider a breakout area for press, where media discussions and interviews can take place. Photographs could be a part of that.

### **Exhibits and Demonstrations**

Exhibits and demonstration will encompass Tribal demonstrations (with or without sales), and posters/exhibits from Tribes, agencies and non-profits. All exhibits and demonstrations must directly link to California Native America water and resource topics and interests. This can include Tribal programs (training, technical assistance), funding opportunities. There will not be tables for vendors who are doing only sales – there must be a demonstration component.

There were discussions about whether there should be a charge for exhibitors, demonstrators and poster sessions.

- Some thought that charges should be requested, although there were different perspectives about who should be charged.
  - For example, those who are required to do Tribal outreach (e.g. agencies). Perhaps a \$100 or \$250 cash contribution or \$500 in-kind contribution. Agencies may have a budget for Tribal outreach.
  - It was noted that those who conduct demonstrations, and have sales, may not attend if there is a fee.
- There was a comment that informational displays should not be required to provide a donation.
- Also, another TWS member suggested that if it not a significant amount – it may not be worthwhile to collect a small amount of revenue.

One proposal is to state that donations, raffle item or in-kind contributions are appreciated. It was suggested that out of the 28 tables, 12 tables be allocated as a table cap for agencies.

In response to a question, it was decided that donors could request an exhibit table.

ACTION ITEM: Atta and Judie to develop proposal invitation letter, exhibit format, timelines. The proposal will be circulated to the TWS Planning Team members.

### **Session Themes: Mini-agendas**

The list of potential speakers was distributed, along with mini-agendas for each of the major themes. The leads for each theme have been working diligently to develop content and identify speakers. Each session will look to discuss issues, concerns and case studies that helped address concerns. It was agreed that speakers need to inform and educate participants. Presenters should not argue – they need to set the discourse.

There was a discussion about having agency participation on the panels. While there is a preference for Tribal perspective – there is a need to have agencies represented as well. This is an educational Summit, the qualifications for potential speakers is to identify those who can contribute to increasing awareness and understanding.



### **Watershed Management and Land Use**

TWS members have contacted potential speakers and have not yet heard back. John Covington is working with Leslie Cleveland to provide additional outreach. It was suggested that all potential speakers be contacted regarding availability and interest. The goal will be to identify/confirm speakers by mid-February. Northern Central Valley should also be represented in the regional breakout. It was noted that Charles Etners was related to Central Coast.

There was a suggestion that Gary Lippner be added as a speaker to provide an overview of IRWM program. There were some concerns voiced about adding IRWM because of issues such as need to waive Tribal sovereignty for funding, and jurisdictional conflicts with counties. This theme reflects a larger topic regarding impacts from land use decisions. It might be best to stick with the larger issues. Recommendations could go into the RMSs. There could be a question to the panel as to whether IRWM is a potential tool – and what has worked or not worked.

It was remarked that the 2013 TWS is looking to focus on areas that were not represented in the 2009 TWS. Areas that are not represented by speakers in the 2013 TWS have an option to provide information through white papers.

ACTION ITEM: Look at adding Northern Central Valley to potential speaker list.

ACTION ITEM: Add question to the panel about the potential role of IRWM and relationship with Tribes.

### **Tribal Ecological Knowledge**

Ron Goode referred to the TEK mini-agenda, which will start with a short (5-minute) video about projects that are happening around the state. This will be followed by a short introduction of what this theme is about.

The panel is comprised of people from throughout the state (Hupa, Ohlone, Chico), to discuss three types of ecosystems. There was some discussion about the role of Chuck Striplen, who is young and may not be as good a fit for this panel as Sage LaPena. She is Wintu and Frank LaPena's daughter. She is an ethnobotanist and also works for Hopland. Sage has something to contribute and is knowledgeable in this area. There were comments that some traditional people may view Sage as controversial. It was noted that there will likely be controversies about any potential speaker because of things that people have heard. This speaker has a body of knowledge on TEK. If she can tie this to water quality for Hopland, that would be helpful. Tribal communities need water. It is important that if there are any controversies with potential speakers, that the controversy does not touch on the focus of the presentation. Both Don and Sage can discuss water quality. There is significant habitat restoration going on and Sage works with native plants.

Chuck was suggested and hasn't been invited. Michael Connelly could perhaps be moved from the Watershed Management and Land Use theme.



It was mentioned that Scott Valley is working with BLM and EPA on restoration (there was a plug-and-pond that blew out and is producing high loads of sediment. Irenia Quitquit might be a good contact for meadows.

The TEK chairs will work with TWS Planning Team members to determine where the best fit is for speakers. There is an interest in getting representation for the Central Coast tribes. Regarding TEK, Tribes are getting serious opposition from biologists, ecologists and other subject matter experts, who say that Tribes do not have the wisdom or knowledge to inform resource management. They question where Tribal knowledge comes from. Frank Lake and Don Hankins are Native American professors, who have studied this, as well as practitioners. The third speaker needs to bring the same type of experience (whether it's scientific or cultural).

One TWS member expressed strongly that TEK presenters need to be traditional and recognized as a cultural authority to speak on that. There needs to be a traditional elder to explain why the Kashia have an agreement in the before world – what the ceremony and plants mean; what it means to have an invasive species come in and eliminate a gathering spot. That perspective can only come from the right people who are allowed to give that perspective. It was noted that Frank Lake's grandfather is Charlie Tom, Karuk.

It was agreed that the TEK mini-agenda provides the right format.

ACTION ITEM: Atta will send Ron contact information for a potential speaker from SF.

ACTION ITEM: Proposal to Schedule tele-conference for TEK and Watershed theme leaders to coordinate potential speakers. Speakers could join the call as well.

### **Marine Life Protection Act**

Atta Stevenson explained that four panelists are confirmed: Ken Wiseman, Hawk Rosales, Atta Stevenson and Russ Crabtree. Another TWS member expressed interest in having a Yurok perspective. Atta Stevenson said that the time is fully allocated and it was suggested that poster sessions be used to describe additional perspectives. There were concerns that specifics are not presented regarding issues of other Tribes involved in the MLPA process.

It was noted that all the presenters are from one region of the MLPA. Others such as Chumash are not represented. Atta noted that Roberta Cordero was contacted and that she had not yet responded. The intent is to have Ken Wiseman talk about the failure of initial efforts. Others believe that Ken Wiseman was the reason that the process failed. The final settlement language was to incorporate and protect the fishing and gathering rights of all Tribal people. The panel is intended to highlight the effort that was involved in trying to participate and why the North Coast process was successful. There were some comments that some people may not consider the North Coast process completely successful.

It is important to bring in the early stages of this process, which were failing. Ms. Cordero is being invited to speak on the session for Indigenous Rights to Water, she could be invited to recap the early process. The MLPA session is focused on what had to happen to bring in Tribal language. The early process failed in many ways. The North Coast group pulled together 7



participants, advocating for Tribal rights in general and hammering out language for the Department of Fish and Game to incorporate regarding MLPA.

There was a question as to why Hawk Rosales is representing a coastal perspective? One recommendation was to have a coastal Tribe speak for themselves. Ms. Stevenson responded that many Tribal leaders leave the TWS to their staff, who are often non-native. Inter-Tribal Siskiyou Wilderness Council represents 10 federally-recognized Tribes. Mr. Rosales acted on behalf of those Tribes. His actions, and everything he signed off on, were at the directions of Tribal chairs. He was followed the process from beginning to end and was instrumental in working on final language with the Commission.

There was a conversation about how to title the presentation. It's not a North Coast perspective. It's not a coastal perspective of MLPA. Is it more about the Blue Ribbon Commission process? Clarify that this process worked for these particular Tribes. Ms. Stevenson explained that the work of the Tribes was separate from the Blue Ribbon Commission. She also noted that within the process of working with MLPA, they were labeled as North Coast stakeholders – and there is no problem in changing the name for the panel.

There was additional conversation explaining that one reason why Hawk Rosales was so involved in MLPA, is the difficulty in hearing about Tribal efforts on MLPA. It turned out that Sinkyone had funding for an attorney – it was all 11<sup>th</sup> hour. While the outcome is not what everyone wanted, the compromise seems to be the best result that could happen under the circumstances. It was a scramble. Due to the work on the North Coast with Ken Wiseman, every Tribe benefits from the fact that Tribes were identified as a third category of user. Now there are separate rules for Native American fisherman.

Ms. Stevenson emphasized that the panel focus is on the end product – and that relationships, regardless of how volatile, allowed Tribes to assert their rights. These four panelists have every perspective on the MLPA – good and bad – going back to 1999. People have stayed on board to find language that benefits the Tribes. Atta provided a real-time update that Ms. Cordero will be available to present on the MLPA panel.

**ACTION ITEM:** Change the title to more accurately reflect the content of the presentation. This talks about having a bad situation and working to achieve better outcomes. It will be important to clarify that this doesn't represent all perspectives.

**ACTION ITEM:** It was recommended to create a map of the coastline of the map, showing where the Blue Ribbon Task Force did and didn't work. Refer to this at the start of the presentation, so that the audience can see. One problem is that Tribes rarely participate on task forces – Tribes can only participate as the public and many Tribal issues can't be publicly discussed. Tribes have concerns with what dairies are doing to the land and water.

**ACTION ITEM:** The presentation will need to provide some background – explaining the broader context and the narrower focus for the panel session. This shows the impact to California Tribes and how things really work. It's about creating space in state processes to give the Tribes the ability to make this work.



### **Indigenous Rights to Water**

Stephanie Lucero recapped that the session is designed to begin a dialog that goes beyond “water rights” (e.g. State Water Board) – expanding the concepts regarding what is connected to Rights to Water. She explained that after reviewing the mini-agenda, TWS Planning Team members will be asked to comment on the proposed format, key topics and suggested speakers. It was noted that Roberto Cordero is not available to speak on the second day of the Summit, and would provide suggestions for potential speakers.

The opening presentation addresses “decommodification of water” as water being essential to all. The Public Trust Doctrine is a potential tool to help convey this idea. The second topic looks at the spiritual component of water, which is linked to the subsequent topic on the cultural component of water. Both cultural and spiritual components relate to traditional ways of life, which connect Tribal members to their ancestors, the land that they come from and the world they live in. Subsistence activities are related to water and water quality. The legal component represents the fourth topic. It can be discussed in terms of how the law does or does not protect the other topics – how the law plays into spiritual and cultural components. It can also be discussed in terms of background and how water law plays out today. There was general agreement on moving forward with the proposed format.

There will be questions to the panelists, with opportunities for audience questions. There was general support for the idea of using a drop box for questions, with contact information for follow up. Questions can also be left on the table.

### *Cultural Aspects of Water*

Both Aaron Dixon and Donna Vasquez are interested in the topic of cultural water use, Donna has not confirmed. Susanville Rancheria had to cancel an event, due to a lack of water for the sweat house. The Rancheria is working with BLM who has committed to trucking water in for future cultural activities (which last for a week). Similarly, the USFS authorizes gathering activities for the Rancheria that are associated with the anniversary of a massacre that occurred in 1866. Donna Vasquez works with pinions and native plants. Lois Connor is a past CIBA board member and a basket-maker. Cultural perspectives in Indian country need to include a male perspective and a female perspective – there should be two speakers.

### *Legal Aspects of Water*

It is good to have an attorney who has done battle for water rights. At the same time, this needs to be educational. This topic would benefit from being rather confined, with additional sessions after this. There was discussion about potential speakers - there is a desire to have greater access with BIA, with BIA staff coming out in the field. There is a concern that if BIA presents, the format may be less congenial and collaborative. It would be good to hear a range of perspectives.



There was a suggestion that the section on water rights be expanded, since this was a priority for Tribes at the 2009 TWS. Adding case studies to the legal discussion would be helpful. It was noted that a Water Rights session is being considered for after the Summit to allow additional discussion. Another comment was that the TWS session on Indigenous Rights should be about Tribal jurisdiction of water rights. The Tribes are looking to find a way to ease into these conversations.

It's not about the legal framework, we already know what the legal framework looks like. While it's important, the cultural and subsistence aspects are of paramount importance. Rarely do the questions get answered. Even with legal wins, it takes forever to get the water. In the meanwhile, streams are drying up. A better question might be, "Why don't we have cultural and subsistence uses as beneficial uses in basin plans?"

Water rights are important for the resources. And land use needs to be looked at in terms of impacts to the water. The BIA has responsibilities – Doug needs to be introduced to the Tribes. Many Tribes don't have access to BIA or access to water information. This is about looking for solutions for everyone. We are looking to assist and educate and share information. Having Doug as the moderator will be sufficient.

Who can speak to that? Part of that jurisdiction is addressed by the earlier sessions on cultural, spiritual, land use and TEK aspects. Steven Quesenberry is an expert in this field and he attended the 2009 TWS. The other speakers are well respected and good candidates and Steven may have the broadest perspective. Curtis Berkey provided a water rights white paper for the 2009 TWS. There will need to be caveats about what this topic will cover to ensure the dialogue is on the larger issues versus specific water rights issues for Tribes.

**ACTION ITEM:** Create a survey to identify potential questions for moderator on the topic of legal aspects of water.

**ACTION ITEM:** Take a look at the schedule to expand the session on Indigenous Rights to Water. (Perhaps we can revisit the time for resolutions.)

**ACTION ITEM:** Consider putting together a resource for Tribes on water rights.

### *Spiritual Aspects of Water*

This session will provide a general, universal discussion of spirituality and water. It will discuss cultural and religious connections to water; the ways the water plays into spiritual life, such as cleansing and healing. While lifeways differ from Tribe to Tribe, many concepts are universal. Same or similar connections are sometimes conducted in different ways. Access is one element of this – the diagram will be provided for this theme.

There was discussion about the possibility of male and female speakers – that if there is a male dancer from the north, then perhaps have a female from the south. There are women who could be invited: for example, Bennae Klac from Pauma or Diana Chihuahua from Torres-Martinez.



Shanti Warlick described potential case studies she could provide from the North. In discussing case studies, there are many dried up springs in the Sierra foothills. These are medicine spots and sacred places for Colfax-Todds Valley, the areas are not protected. As a Tribe that is not Federally recognized, they must fight to be heard. It would be helpful to create poster sessions to help tell those stories. Having visuals help convey the stories. See if it is possible to tell some of those stories over the lunch hour, leading into the implementation session. If there isn't time, then we would select the best stories. Agencies tend to understand more of the aspects relating to land use, watershed, and water needs. The cultural and spiritual issues – that's a different framework. This aspect is what makes the TWS different from anything else out there. The idea of a case study doesn't really apply to this session.

When discussing geographic representation of the state, there was a question of where is participation from the south? It was mentioned that southern participation is not supported by having meetings in Sacramento. Originally, the proposal was to have meetings in the south which didn't occur because of State travel restrictions. When there were regional Plenaries for the 2009 TWS, more Tribes participated. When people feel disconnected from the process, extra effort needs to be made to bring involve them.

ACTION ITEM: John Covington to contact Bennae Klac and Diana Chihuahua to see if one is available.

ACTION ITEM: Paula Britton will make some contacts with Southern California Tribes to ask for recommendations on potential speakers.

ACTION ITEM: Ask for input on potential what spiritual dimensions should be discussed.

ACTION ITEM: The next TWS Planning Team meeting will occur on February 6<sup>th</sup>, at 10 a.m.

## **Working Lunch – Calif. Department of Fish and Wildlife**

Jennifer LaBay, Staff Environmental Scientist with the Invasive Species Program, introduced Martha Volkoff – the science lead for the program, and Steve Ingram – the newly appointed Tribal Liaison for CDFW. Ms. LaBay's presentation would focus on invasive species and their impacts. The program is also looking for advice on working with Tribes on prevention efforts, as well as hearing Tribal perspectives on impacts and control of quagga and zebra mussels.

The presentation began with definitions of several related terms: invasive species, non-native (or nonindigenous) species, and vectors. Federal and State authorities for invasive species were quickly summarized. Different agencies focus on different aspects of invasive species and associated management plans. It was noted that the federal Invasive Species Advisory Council is looking to identify two Tribal members at their next meeting. At the statewide level, the California Invasive Species Advisory Committee is convened by California Department of Food and Agriculture (see [www.iscc.ca.gov/cisac.html](http://www.iscc.ca.gov/cisac.html)).

Basic information was provided on quagga and zebra mussels, with a discussion on impacts to ecosystems, water supply, fisheries and boating. Invasive species compete with native mussels



for food sources, and may colonize. Invasive mussels have entered California – quagga have been identified in Lake Mead and subsequently into the Colorado River and related reservoirs. Two zebra mussel infestations have been identified in San Benito county. Other popular water bodies in Northern California are at risk for mussels through transport on boat hulls.

The Quagga and Zebra Mussel Prevention Program includes the following activities:

- vulnerability assessments (looking at risk factors such as recreation use, water access, water quality, nearby infestations)
- monitoring (early detection, sampling and decontamination procedures)
- public education (outreach and information, fact sheets and brochures)
- recreation management (training and program implementation).

Funding for prevention programs comes from several sources – including fees generated through local ordinances, grants from the Wildlife Conservation Board and USDA, and AB 2443 which requires an additional fee for boat registrations. Revenue will start to be collected at the start of 2014, with expenditures occurring in 2015.

While the focus is on mussels, invasive species also include plants – where the lead is generally through the Department of Food and Ag, as well as the Department of Boating and Waterways.

The presentation concluded with a focus on next steps. Specifically, the program is looking to determine:

- best ways to approach Tribes on working together on prevention programs
- whether CDFW resources and materials need to be revised for Tribal programs
- how cultural resources and practices are being impacted by invasive species
- whether prevention programs would benefits lands that are co-managed by Tribes.

### **Discussion**

A Tribal AC member indicated that there is likely interest from the seven Tribes in Lake County. Tribes have interest in how abatement programs are implemented. There is little funding for these invasive species programs.

Invasive species in water ways is an important consideration for Tribes. DFW may be involved with this through the lake and streambed program, which looks at streambed alterations. DWF is working on invasive species guidelines. When asked if the staff member is working with Tribes to collect feedback, Ms. LaBay responded that she will contact staff to inform them of the need to work with Tribes.

In response to a question, it was noted that the invasive mussels are freshwater species and do not occur in the Salton Sea.

Tribes around Clear Lake would benefit from outreach on invasive mussels. Big Valley Rancheria sponsors fishing tournaments where boats come in from all over the United States.



This might be a good candidate for seeing if boat checks are being conducted. It seems that mini-workshops would be a good approach.

The program was encouraged to connect with Yurok fisheries staff, who found zebra mussels on the Klamath River during sampling at Weitchpec. Also, a Resighini Rancheria member found samples at 101 and the Klamath River.

A question inquired as to whether the Federal government provided any funding to the program and, if so, through which act. The response was that about \$20,000 a year from USFWS. The program qualified for those funds after developing its aquatic invasive species management plan. A similar amount has been received towards producing a document for the Quagga-Zebra Mussel Action Plan. Those funds are provided through the National Invasive Species Act. When it was last amended in 1996, the provision was added establishing the Aquatic Nuisance Species Task Force which resulted in the creation of six regional panels. California is part of the Western Regional Panel. An Executive Order was also issued in 1998. A follow-up question asked if any of the grant funding will be available to Tribes that are situation on large bodies of water? The Act says that funding will be available to agencies that are subject to CDFW code. The question will be whether Tribes are subject to the code.

Steven Ingram, Senior Staff Counsel and Tribal Liaison for California CDFW, left business cards providing his contact information, which is: [Steven.Ingram@wildlife.ca.gov](mailto:Steven.Ingram@wildlife.ca.gov) (email) and 916-651-7401 (phone). He noted that the agency has initially created the position for the Tribal Liaison at headquarters; the office is looking at establishing a Tribal Liaison in each of the seven regional offices. They are working to improve the communication and cooperation with agencies and Mr. Ingram welcomes input on how to best accomplish that.

**ACTION ITEM:** Jennifer LaBay will provide the Tribal AC with information on the State and Federal Advisory efforts, including membership qualifications.

**ACTION ITEM:** Jennifer LaBay will contact the stream and lake beds program to let them know of the need to work with Tribes regarding feedback on proposed actions.

**ACTION ITEM:** Jennifer LaBay to follow up with Yurok fisheries staff and Resighini Rancheria regarding the presence of zebra mussels on the Klamath River.

## Draft Resolution

A recap was provided, outlining that the resolution would be developed in advance, for circulation to Tribes and adoption by Councils, with a ceremonial signing at the Summit. The draft resolution needs to be prepared by February 24<sup>th</sup>. The intent is to produce a non-binding resolution that provides direction and inspiration for what is discussed at the Summit. The Tribes may need up to two months for review through legal and the Council. It is optional and if Tribes cannot sign with the way it is written, then they will not sign.

Meeting members reviewed a worksheet to develop the resolution. The sample text is based on an NCAI resolution, with an introductory background section. Ideas that were submitted as



potential resolutions were listed to help determine if the proposals represent “whereas” statements or “resolution” statements. With the list ideas, it was mentioned that #1 and #8 go together; #3, 6, 9 and 11 go together; #4 and 7 go together; #2, 5 and 10 don’t go at all. There was discussion about whether this should be called a resolution, or perhaps representing it as pledge would allow greater flexibility in the language. There should be screen-checked with the State – Tribes and the State need to develop the resolution together. The Resolution was seen as a deliverable. What will move forward on the three topics? It was suggested to stick with a resolution, working with what we have here. These items get our ideas across, and may be controversial. Let’s find areas where we can agree.

Some statements represent goals to be achieved. The Tribes need agreement on what they want the State to look at. E.g. – This is what California Native American Tribes want the State to do. Consider a high-level resolution for each theme, where everyone comes together on basic concepts. A resolution between high-level State agency representatives and Tribes has never happened before. The language needs to be something that state agencies can sign. Some of the existing proposals are not realistic.

Acknowledge that Executive Order B-10-11 establishes a policy for state agencies and departments under executive control to “encourage communication and consultation with California Indian Tribes,” including meaningful input by “tribal governments into the development of legislation, regulations, rules and policies on matters that may affect tribal communities.”

Agencies are required to open up policies to change them and create a foothold on some of the issues. It will help eventually. There needs to be a way to get agencies on the Tribal side. Forest Service THP activities are impacting Tribes, for example our spring waters are buried by logging. Tribes, agencies and the public need to work together.

Acknowledge what the state has committed to – the resolution outlines what needs to happen. Consider a “whereas” saying that State of California Natural Resources agency 2012 officially committed itself to better engage the Tribes (consultation policy). Reference AB685, declaring that the established policy of the State is “every human being has the right to safe, clean, affordable, and accessible water for human consumption, cooking and sanitary purposes.”

Is the resolution intended to make a commitment to work together and/or an acknowledgement of Tribal rights? Who from the state is expected to sign this? It needs to be generic enough so that all Summit participants can sign. For instance, if there is a “whereas” regarding acknowledgement of water rights or riparian rights – an agency may not be able to do that, if they don’t have purview or jurisdiction. Broad resolution statements can serve as an umbrella and create avenues for opportunity, to move towards more specific outcomes. Language that is specific can create constraints. “Whereas” statements can include items of concern for Tribes.

Will the Governor be asked to sign this? Getting State agencies to acknowledge Tribal Ecological Knowledge would be huge. Broader and simpler would help open the door. It will be



important for agencies to sign as well, setting policies for their own department. It was generally agreed that the “whereas” items are too specific. In those statements, say “aboriginal territory” rather than homeland; “appropriative” needs to be added to the first statement.

The Resolution statements were discussed. Some thought the resolutions were too broad. The term “public entities” generated comments indicating that the State can’t direct federal agencies. Also, public entities include local districts, special districts, etc. The three resolutions (as drafted) could be taken to a local planning effort and make a strong case for Tribal involvement. It was agreed to use the current three resolutions and strengthen the “whereas” items.

**ACTION ITEM:** Look to have the resolution signed by the Governor and heads of agencies (who are appointed by Governor).

**ACTION ITEM:** Look for right name or title for this – “pledge” is too casual, “resolution” is too formal. Proclamation? Acknowledgement? Ask for input from Cynthia Gomez.

**ACTION ITEM:** Paul, Ron, Rob, Kim, Stephanie Suess and Reno will work on a draft for review at the February 6.

## Research on Tribal Participation in IRWM

Danielle Dolan, UC Davis, is conducting research to evaluate the IRWM process and how it might better coordinate with Tribes. Ms. Dolan is interested in hearing from Tribes. Surveys were distributed and phone interviews can also be scheduled. For more information contact Danielle at: [danielle.dolan@gmail.com](mailto:danielle.dolan@gmail.com) or 508-454-7966.

## Delta Stewardship Council

Phil Isenberg is the Chair of the Delta Stewardship Council, which is a newly formed State agency. His background includes working with Tribes, both as a lobbyist and as a legislator. The number of Federal, State and local entities with responsibilities in the Delta and Suisun Marsh exceeds 200. Within the boundaries of the Delta, there used to be many Tribes and now there are none. There are massive funding levels directed to water projects every year. Of about \$26 billion, roughly \$6 billion is for capital projects with the remaining \$20 allocated to operation and maintenance – and most of the money comes from local water districts.

Tribes are working here with DWR to try and bring Tribal perspectives into planning. Tribal water rights are fundamentally a Federal recognition process first, with an implied right to water as described in the Winters Doctrine. Tribes have been litigating across the country to define what the Winters case means, and how new policies and rules apply. Tribes are also looking at environmental flows as part of Winters rights.

The sheer number of entities working in the Delta results in a situation where many are involved, without anyone clearly in charge. The awareness of water as a finite resource is increasing, if not already well established. 97% of California’s water supply comes through precipitation. 60% of that supply is not available, since it dissipates as evaporation, is used by plants or provides groundwater recharge. Historically, California’s economy was centered on agriculture and



mining. Mr. Isenberg noted that California tends to lurch forward on major water issues about every 70 years. In the period of 1870-1880, the battle was against hydraulic mining. The concept of Public Trust is founded on the principle that water is held in trust for the benefit of the larger society. This concept extends back to Justinian Code. The challenge now is that historic demands are bumping up against finite supplies.

Thinking further about the historic context, the Delta was converted from 737,000 acres of seasonally flooded marshlands into what it is now – artificial channels, narrow riverbeds and high levees. In the 1950s, there is a growing awareness of the impacts to water quality from human activity – with ensuing fights around pollution to downstream users. Increasing water quality standards are forcing upgrades and retrofits to existing facilities. Two large efforts have affected water in the Delta: The Central Valley Project was authorized in 1933 and the State Water Project was approved in 1960. Of the water that is moved out of the Delta, only 15% goes to Southern California, about 65% goes to Central Valley agriculture, with the remaining 20% going to Bay Area water districts.

In 2009, the legislature passed five bills including the \$11 billion water bond, which has been continued. Another piece of legislation created the Delta Stewardship Council, which was directed to develop a statewide plan which agencies can follow over time. The Council has limited regulatory authority for covered actions and the Plan is contentious since different interests have different perspectives on what is needed in the Delta. The Council has been sending out emails to 170 Tribes with information on the development of the Delta Plan. The final Delta Plan has been issued, and it is not heavy on Tribal focus since the Delta Plan has no legal authority to adjudicate water rights.

The enacting legislation was provided in a handout. The statute establishes co-equal goals for water supply reliability and an improved Delta ecosystem, to be accomplished in a way that recognizes the unique elements of the Delta as a place. The Delta Plan represents a planning effort, and is not a project plan. Mr. Isenberg remarked that the Council will answer any question that Tribes have, and that contact information is provided in the materials packet. He noted that four Tribes have submitted comments. Other comments are welcome and should be submitted as soon as possible. The Council is working to finalize the plan and certify the Environmental Impact Report by April 2013.

### ***Discussion***

Comment: With the new vacancy on the Board, perhaps there is an opportunity for a Tribal representative to serve on the Council.

Response: The Council consists of seven members: four are appointed by the Governor, one by the Speaker of the Assembly, one by the Senate Rules Committee, and the Chair of the Delta Protection Commission (must be a County Supervisor). The current opening is a Governor-appointed position. Names for consideration should be submitted to the Governor. Statutorily, members must bring a statewide perspective. Also, members are



subject to conflict-of-interest requirements and statements of economic interest must be submitted.

Comment: In the foothills, the hope is that efforts will look at landscape forest management and the potential consequences for water supply and quality.

Response: The new director is out of the USFS and he is fully familiar with that. Many entities believe we do not have any jurisdiction, or if there is any jurisdiction it only extends to the legal Delta. While we would be glad to talk to you, we don't have funding.

Question: What is being done for cultural resources management? We did take a look at the document. We would like you to consider cultural resources might be impacted by expansion projects. How are they consulting with Tribes when areas are selected? What options are available to Tribes when impacts to resources cannot be avoided?

Response: There are unique problems that are similar to problems encountered by other Tribes. Gaming Tribes have the resources to bring in staff and consulting expertise. The most important thing to do is looking at programs such as ACORE, where outreach efforts include internships for Tribal members interested in scientific issues relating to hydrology, environment or related questions. So many Tribal organizations have so much talent in the State – and there is an inherent shortage of scientists. It would be terrific if Tribes could get members into the c-grant fellowship program. There is a legislative scientific fellow program, which may be out of UC San Diego, which puts 10 post-doctoral scientists and they have yet to have a Tribal member. It would help the Council a lot if you are willing.

Mr. Isenberg expressed his interest in conducting government-to-government consultation with a Tribe, spending 4 or 6 hours walking through the questions. The conversation would be constrained by the limits of the Council's authority. That's likely to come more and more. Conservation could have impacts to Tribes, and Tribes have legal arguments to make that the State probably can't mandate conservation for Tribes. The Delta Plan must be amended every five years, and can be done sooner.

Question: Can the Plan promote better watershed management? Can the plan highlight the legal requirements for protecting cultural resources?

Response: Yes, the Plan does point to watershed management mentioned and local jurisdictions do not want the Council intruding on local authority in the watershed. The Council is open to suggestions on how to best introduce those concepts into the Plan. If there is an interest in a Tribal meeting on watershed issues or timber territory, that might well find place for the next amendment of the Delta Plan. It will require some time.

Question: The San Joaquin River water comes from our homeland. What we're doing here is what you are eluding to: there are problems with jurisdictions and taboos on certain topics. This is what we're talking about.

Response: The Supreme Court says there are implied rights to water, which is not unlimited. When Congress refused to ratify the 1861 treaties, was there mention of water?



## Tribal AC Communication Plan

As a recap, Stephanie Lucero reminded Tribal AC members that the Tribal AC Communication Plan was put on hold, pending the Resource Agency's response to the Executive Order. The Consultation Policy has been released and work can continue to the Communication Plan.

The draft 2008 Tribal Communication Plan, which was the work of the Tribal Communication Committee, provided recommendations and tools on how to communicate with Tribes. The plan is being revised to represent the Tribal AC members' recommendations to State agencies. It is a recommendation and tool. DWR is also working on their own Communication Plan. The previous draft was generally received and there was an unresolved question regarding the language on federally-recognized Tribes.

There needs to be a clarifying statement on why the definition is provided, and how the Communication Plan embraces more than federally-recognized Tribes.

Kimberly Johnston-Dodds briefly explained her work and how the Communication Plan could help guide DWR approaches to communicating with Tribes. She clarified that the Tribal AC Communication Plan is the Tribal AC's document and recommendations. It can be considered by DWR. The Department also needs to be consistent with the Governor's Executive Order and the Resource Agency's Tribal Consultation Policy (Nov. 26). Ms. Johnston-Dodds has been exploring the process needed to establish a policy and guidelines within the Department. Those who want to work on Tribal guidelines can work with Kim.

Obtaining Executive Approval provides Ms. Johnston-Dodds with authority to go to other Divisions – and ask about their efforts. Kimberly has been pleasantly surprised to see how many DWR staff are interested in working with Tribes. The goal is to have a charter by February to launch the workgroup. The effort will support the regional liaisons as well. The Tribal liaisons will meet with the Deputy Director next week to discuss concepts with the Chief Deputy to work with Tribes. There will also be a meeting with cultural resources staff. The workgroup is on the ground floor and the workgroup will be learning together.

The new Resources Agency Policy requires a Tribal liaison for all listed departments and commissions. There are high-level liaisons that need to be in place.

**ACTION ITEM:** Follow up on the status of the CalEPA Communication Plan.

**ACTION ITEM:** Resend the Resources Agency Tribal Consultation Policy, State Organization chart and the DWR org chart.

## CWP Production Schedule

The release date for Update 2013 of the California Water Plan is March 5, 2014. The Public Review Draft is June. Tribal AC members are encouraged to review materials that are posted.



Depending on when comments are received, they may or may not show up in the Public Review Draft. There are multiple cycles of review and comment.

Volume 1 includes high-level policy content. The TWS Resolution could fit in here. Volume 1 editors are working with Kimberly to help identify locations for Tribal content. Kimberly encouraged Tribal AC members to highlight information that is missing from the drafts.

ACTION ITEM: Resend links to sections of Update 2013 that have already been posted.

## Public Comment

DWR sent out a solicitation for proposals. If your Tribe has water with Total Dissolved Solids of 1,000 milligrams per liter, there is Prop 50 funding for desalination projects. DWR will provide 50%. This information is also available online.

## Next Steps

### Tribal Water Summit

ACTION ITEM: Tribal AC members were requested to follow up with Tribal leaders to confirm receipt of TWS materials and registration link. The registration page is online at: <http://tws2013.eventbrite.com>. There are two categories for registration: dignitaries and observers.

ACTION ITEM: Stephanie Lucero will send invitation template to Tribal AC members, with link for the registration page.

ACTION ITEM: TWS Planning Team members to submit suggestions for traditional foods to Stephanie Lucero.

ACTION ITEM: Stephanie Lucero to contact local colleges to invite Native American studies to assist with registration.

ACTION ITEM: Invitations will be extended to presenters by mid-February.

ACTION ITEM: Schedule Tribal AC/TWS meeting to debrief Summit and work on next steps.

ACTION ITEM: On Eventbrite – list Ron, not Joetta, for donations.

ACTION ITEM: There should be a direct link for a donation form on the TWS page.

ACTION ITEM: Acknowledge volunteers and in-kind contributions in proceedings.

ACTION ITEM: Add Bureau of Reclamation to list and follow up with Leslie Cleveland.

ACTION ITEM: Add column to budget, showing what has been received to date.

ACTION ITEM: Anyone interested in reviewing text for media releases should contact Stephanie Lucero.

ACTION ITEM: Follow up with 88.1 in the Bay area and clarify what can he do, what does he want to do? Ron will work with Stephanie Lucero and John Covington.



ACTION ITEM: Schedule session for press and media discussions, including photos. Look at opportunities to work with Water Stories.

ACTION ITEM: Kimberly Johnston-Dodds will connect with Public Affairs to discuss a Press Toolkit icon and placing it on the Water Plan home page.

ACTION ITEM: Determine photography protocols. Consider a breakout area for press, where media discussions and interviews can take place. Photographs could be a part of that.

ACTION ITEM: Atta and Shanti to develop proposal invitation letter, exhibit format, timelines. The proposal will be circulated to the TWS Planning Team members.

### **TWS Mini-Agendas**

ACTION ITEM: Look at adding Northern Central Valley as potential speaker for Watersheds.

ACTION ITEM: Add question to the Watershed panel about the potential role of IRWM and relationship with Tribes.

ACTION ITEM: Atta will send Ron contact information for a potential TEK speaker from SF.

ACTION ITEM: Schedule tele-conference for TEK and Watershed theme leaders to coordinate potential speakers. Speakers could join the call as well.

ACTION ITEM: Change the MLPA title to more accurately reflect the content of the presentation. This talks about having a bad situation and working to achieve better outcomes. It will be important to clarify that this doesn't represent all perspectives.

ACTION ITEM: It was recommended to create a map of the coastline of the map, showing where the MLPA Blue Ribbon Task Force did and didn't work. Refer to this at the start of the presentation, so that the audience can see. One problem is that Tribes rarely participate on task forces – Tribes can only participate as the public and many Tribal issues can't be publicly discussed. Tribes have concerns with what dairies are doing to the land and water.

ACTION ITEM: The MLPA presentation will need to provide some background – explaining the broader context and the narrower focus for the panel session. This shows the impact to California Tribes and how things really work. It's about creating space in state processes to give the Tribes the ability to make this work.

ACTION ITEM: Create a survey to identify potential questions for moderator on the topic of legal aspects of water.

ACTION ITEM: Take a look at the schedule to expand the session on Indigenous Rights to Water. (Perhaps we can revisit the time for resolutions.)

ACTION ITEM: Consider putting together a resource for Tribes on water rights. A

ACTION ITEM: John Covington to contact Bennae Klac and Diana Chihuahua to see if one is available as a speaker on spiritual aspects of water.

ACTION ITEM: Paula Britton will make some contacts with Southern California Tribes to ask for recommendations on potential speakers for spiritual aspects of water.

ACTION ITEM: Ask for input on potential what spiritual dimensions should be discussed.



ACTION ITEM: The next TWS Planning Team meeting will occur on February 6<sup>th</sup>, at 10 a.m.

### **TWS Draft Resolution**

ACTION ITEM: Look to have the resolution signed by the Governor and heads of agencies (who are appointed by Governor).

ACTION ITEM: Look for right name or title for this – “pledge” is too casual, “resolution” is too formal. Proclamation? Acknowledgement? Ask for input from Cynthia Gomez.

ACTION ITEM: Paul, Ron, Rob, Kim, Stephanie Suess and Reno will work on a draft for review at the February 6.

### **CDFW Presentation**

ACTION ITEM: Jennifer LaBay will provide the Tribal AC with information on the State and Federal Advisory efforts, including membership qualifications.

ACTION ITEM: Jennifer LaBay will contact the stream and lake beds program to let them know of the need to work with Tribes regarding feedback on proposed actions.

ACTION ITEM: Jennifer LaBay to follow up with Yurok fisheries staff and Resighini Rancheria regarding the presence of zebra mussels on the Klamath River.

### **Other**

ACTION ITEM: Resend links to sections of Update 2013 that have already been posted.

ACION ITEM: Develop proposals for revised Tribal AC meeting schedule.

ACTION ITEM: Send out link to DWR Solicitation for Proposals regarding TDS exceeding 1,000 mg/liter.



## Attendance

### **Tribal Advisory Committee Members and Alternates:**

**Paul Britton**, Habatemotel Pomo of Upper Lake  
**John Covington**, Morongo Band of Mission Indians  
**Rob Cozens**, Resighini Rancheria  
**Aaron Dixon**, Susanville Rancheria  
**Reno Franklin**, Yocha-Dehe Wintun Nation  
**Bill George**, Pit River Tribe  
**Tom Keegan**, Dry Creek Rancheria  
**Michael Kitchell**, North Fork Mono Tribe  
**Oscar Serrano**, Colusa Indian Tribe  
**William Speer**, Shasta Indian Nation  
**Stephanie Suess**, Tuolumne Band Me-Wuk Indians

### **Department of Fish and Wildlife:**

**Steve Ingram**, Tribal Liaison  
**Jennifer LaBay**, Staff Environmental Scientist  
**Martha Volkoff**, Program Lead Scientist

### **Others:**

**Dore Bietz**, Tuolumne Band of Me-Wuk Indians  
**Danielle Dolan**, UC Davis, Graduate Student  
**Andrew Godsey**, Shingle Springs Rancheria  
**Julie Griffith-Flatter**, Sierra Nevada Conservancy  
**Marcus Guerrero**, United Auburn Indian Community  
**Steven Hutchason**, Wilton Rancheria  
**Chuck Jachens**, US Bureau of Indian Affairs, Pacific Region  
**Emily Reeves**, Yocha-Dehe Wintun Nation  
**Angelica Salceda**, UC Berkeley  
**Atta Stevenson**, California Indian Water Commission (via webinar)  
**Shanti Warlick**, California Indian Water Commission  
**Randy Yonemura**, California Indian Water Commission  
  
**Emily Alejandrino**, DWR Tribal Coordinator Work Team Lead  
**Xavier Tito Cervantes**, DWR, Northern Region Office, Tribal Liaison  
**Michelle Dooley**, DWR, South-Central Region Office  
**Kimberly Johnston-Dodds**, DWR Executive Office, Tribal Liaison  
**Mary Randall**, DWR, Northern Region Office, Tribal Liaison  
**Jennifer Wong**, DWR, Southern Region Office, Tribal Liaison

Facilitation Team: Stephanie Lucero, Tribal Facilitator; Judie Talbot, Facilitation Support – CCP